

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No.11-20489

Plaintiff,

Mark A. Goldsmith

v.

United States District Judge

XERIOUS LEMONN BROACH,

Michael Hluchaniuk

United States Magistrate Judge

Defendant.

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**MAGISTRATE JUDGE’S REPORT, FINDINGS AND
RECOMMENDATION CONCERNING PLEA OF GUILTY**

I. REPORT AND FINDINGS

This case was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B) and 636(b)(3) for purposes of receiving, on consent of the parties, defendant’s offer of a plea of guilty. Defendant, along with counsel, appeared before me on September 26, 2011. In open court, I examined defendant, under oath, confirmed defendant’s consent, and then advised and questioned defendant, regarding each of the inquiries prescribed by Rule 11(b) of the Federal Rules of Criminal Procedure.

Based upon defendants answers and demeanor, **I FIND:** (1) that defendant is competent to tender a plea; (2) that defendant’s plea was knowingly, intelligently made; and (3) that the offense to which defendant pleaded guilty is supported by an independent basis in fact containing each of the essential elements of the offense.

Therefore, I have ordered the preparation of a presentence investigation report.

II. RECOMMENDATION

For the reasons set forth above, **IT IS RECOMMENDED** that, subject to the Court's consideration of the plea agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, defendant's plea be accepted, defendant be adjudged guilty, and the Court impose sentence.

III. REVIEW

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as "Objection No. 1," "Objection No. 2," etc. Any objection must recite precisely the provision of this Report and

Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: September 26, 2011

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on September 26, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Anthony P. Vance, AUSA, Kenneth S. Karasick, and Joan E. Morgan, and that I have mailed by United States Postal Service the paper to the following non-ECF participant(s): Pretrial Services Agency and United States Marshal Service.

s/Tammy Hallwood
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